

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION
No. 7:95-CR-11-2-BR
No. 7:21-CV-133-BR

MAUDELLA JONES LOCKLEAR,)	
)	
Petitioner,)	
)	
v.)	ORDER
)	
UNITED STATES OF AMERICA,)	
)	
Respondent.)	

This matter is before the court for initial review of a 28 U.S.C. § 2255 motion, (DE # 305), pursuant to Rule 4 of the Rules Governing Section 2255 Proceedings. Under this Rule, “[i]f it plainly appears from the motion, any attached exhibits, and the record of prior proceedings that the moving party is not entitled to relief, the judge must dismiss the motion” R. Gov. § 2255 Pro. 4(b).

In 1995, defendant pled guilty to maintaining a place for the purpose of manufacturing and distributing of a controlled substance. The court sentenced her to 210 months imprisonment and 36 months supervised release and imposed a fine and special assessment. (DE # 170.) In 1998, on the government’s motion, the court reduced defendant’s sentence of imprisonment to 72 months, reduced the fine imposed, and left intact all other aspects of the original judgment. (DE # 212.) Petitioner is no longer incarcerated and is not on supervised release.

Petitioner requests that the court set aside and vacate her sentence when her son/co-defendant’s (Johnny K. Locklear, Jr.) case is vacated. (Mot., DE # 305, at 4; see also Mot., DE # 294 (“I am a co-defendant of Mister Locklear’s and my 95 conviction is a direct result of Mister Locklear’s case.”).) Because petitioner is no longer in custody, habeas corpus relief under §

2255 is not the appropriate method for relief; if any, a writ of error coram nobis or a writ of audita querela may be. See United States v. Sessoms, 488 F. App'x 737, 738 & n.* (4th Cir. 2012). However, even construing petitioner's motion as one for either writ, petitioner cannot show she is entitled to relief. Her conviction and sentence do not rise or fall on her son/co-defendant's convictions and sentences for conspiracy to distribute and possess with intent to distribute a controlled substance and using a firearm during and in relation to a drug trafficking crime.¹

Accordingly, petitioner's § 2255 motion is DISMISSED. The court finds that petitioner has not made "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). Pursuant to Rule 11(a) of the Rules Governing Section 2255 Proceedings, a certificate of appealability is DENIED.

This 4 October 2021.



W. Earl Britt
Senior U.S. District Judge

¹ Johnny K. Locklear, Jr. has also filed a § 2255 motion to vacate his convictions and sentence. (DE # 302.)